

**MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL**  
**TUESDAY, AUGUST 11, 2020**

**I. CALL TO ORDER**

Mayor Ladwig called the Webex virtual meeting to order at 6:00pm. Council members in attendance: Ladwig, Miller, West, Grover, Davies. City Staff in attendance: City Manager Eli Naffah, City Clerk Gabriel Adams, City Planner, Trever Parker, and City Engineer Patrick Sullivan.

**II. PLEDGE OF ALLEGIANCE**

**III. ADJOURN TO CLOSED SESSION** – Closed Session held at the conclusion of the regular meeting.

**IV. APPROVAL OF THE AGENDA**

*Motion (Grover/West) to approve the agenda as written. Passed unanimously.*

**V. APPROVAL OF MINUTES – 07-14-2020 cc**

*Motion (Grover/West) to approve the minutes as written. Passed unanimously.*

**VI. COUNCIL REPORTS/COMMITTEE ASSIGNMENTS**

**Grover:** Announced his candidacy for the 2-year City Council seat on the November ballot. Will be outreaching to the community leading up to the election.

**Clompus:** City Council onboard activity completed in July. Met with Rancheria, Tsurai, and hope to have committee assignments on the September agenda and take on more responsibilities.

**Davies:** No report.

**Ladwig:** No report.

**West:** No report.

**VII. STAFF REPORTS – City Manager & Law Enforcement**

City Manager Eli Naffah noted the highlights listed in the packet report; Slurry Seal project scheduled for September 17, and the Town Hall Solar proposals should be received by September 03. Sea Level Rise discussion next week on the League of CA Cities. October 7-9 League Conference will be held online.

**Ladwig:** Please include water production use and loss report every month.

**VIII. ITEMS FROM THE FLOOR**

*(Three (3) minute limit per Speaker unless Council approves request for extended time.)*

**Anita Thompson – Trinidad**

Status of the hydrant replacement project for Van Wycke and the Harbor? City Manager Naffah explained construction will begin the day after Labor Day.

**Dwight Miller – Trinidad**

Who represented trail users at the Van Wycke stakeholder meetings? The Van Wycke Trail experience is different than walking Edwards Street. Vista points will not be used. The utility bridge is a good idea, but how about a bridge for pedestrians? Non-participation by Trinidad residents in the discussion is an issue. The January 14 meeting was made by non-resident influence. It was a narrow, emotional decision to remove trail rehab from the project, and remove trail user stakeholders from the discussion.

**Mayor Ladwig** reminded the public that the Trails Committee and Planning Commission are meeting next week, and detailed comments are encouraged at those meetings for continued input.

**Dick Bruce – Trinidad**

Echoed Dwight Miller's comments. Stakeholder meetings only included adjacent property owners – not trail users. It's important that the residents and trail users be recognized as stakeholders.

## **IX. CONSENT AGENDA**

1. Staff Activity Report – July 2020
2. Financial Statements – June 2020
3. Law Enforcement Report – July 2020
4. Engagement Letter with Marcello & Company to Perform the 2019-2020 Audit.

*Motion (Clompus/Grover) to approve the consent agenda as written. **Passed unanimously.***

## **X. DISCUSSION/ACTION AGENDA ITEMS**

1. Discussion/Decision regarding Van Wycke Trail Connectivity Project Revised Design Concept.  
City Engineer Patrick Sullivan presented the revised project concept. It addressed previous stakeholder review comments, provides improved pedestrian and bicycle connectivity on the south side of Edwards Street instead of through the slumping portion of the Van Wycke trail, and incorporates 3 view-points with two at either end of the failed/closed Van Wycke Trail segment and on Edwards near the new crosswalk.

Sullivan explained the option for dealing with the utilities in the slumping area of the Van Wycke Trail. There is a stormwater drain pipeline, an isolated water line, phone and cable lines. In 2010 there was a geotech study done to develop options for mitigating the slide. The 6" concrete line was shut off and isolated. It was recently tested and failed. The phone line is barely intact. The stormdrain line is in question. The gravity flow nature of the stormdrain line must be maintained. The proposal is to construct a bridge to support the utilities.

Council questions included:

**Clompus:** Would the requirements for a pedestrian bridge be different than what is being designed for the utilities?

Sullivan confirmed that yes, the design would be very different if a footbridge was desired. The utility bridge does not preclude incorporating a footbridge at a later date. If there is a rupture in the stormdrain, it would lubricate the slump. Installing a utility bridge should be relatively easy, and the lifespan may be approximately 20 years. The larger the span, the longer the life of the bridge, depending on how much it weighs.

**Davies:** When the I-beam is placed, the utility issue will be addressed? Sullivan confirmed that yes, the I-beam bridge resolves the failing utility issues.

**Ladwig:** confirmed that the immediate need to address the utility failures does not preclude the City from considering trail repairs.

**City Planner Trevor Parker** emphasized there is a timeline and deadline for using the Caltrans funding. The City won't have a solution that addresses everyone's concerns, but the question is whether the City can utilize the funding available through this grant is an opportunity to make very important repairs to critical utility infrastructure. A trail repair solution is not possible to address prior to the grant deadline. The Planning Commission & Trail Committee meetings will be discussing the temporary closure of the trail (CDP) next week. The larger issue of finding a solution to the trail will not be discussed.

**Davies:** I'm confused with the direction of this conversation. We're talking about utilities, but not about the trail. Will the grant pay for the utilities? Are we going to ask questions of the connectivity component, or utilities concept? Everyone in town is a stakeholder. It is being designed around private properties adjacent to the trail. What are the major concerns? I would like to see all the comments and notes from the stakeholder meetings. Is it that the property owners don't want to see people walking on the trail, or don't want construction in front of their homes?

**Becky Price-Hall** explained that the original approved project scope addressed both, but the option to rebuild the trail can no longer be incorporated into this grant due to the complexity of issues and the deadline. "Stakeholder" meeting may have been too broad of a term. The City wanted to give the immediate landowners a chance to express their questions and concerns ahead of future public meetings. It was more of a courtesy meeting, than a stakeholder. An example of a major concern brought up was will the landowners uphill be interested in offering some of their property as an option if moving utilities and/or trail be feasible?

**City Manager Naffah** explained the new connectivity concepts being proposed; crosswalks, vista points, sidewalks, bike lane, etc. illustrated on the draft plan included in the packet. The continuation of the existing Van Wycke Trail was excluded, and re-routed to bike and pedestrian improvements along Edwards Street. Input obtained by stakeholders at the landowner meeting was supportive of the revised concept being presented tonight.

The Van Wycke Bicycle and Pedestrian Connectivity Project (Project) was approved by the California Transportation Commission (CTC) and programmed in the Active Transportation Program (ATP) for \$714,000. At the January 14 Council meeting, Council passed a motion *“to abandon the Van Wycke Trail, direct staff to explore solutions to protect the stormwater infrastructure & adjacent utilities, and engage in stakeholder meetings to discuss connectivity as it relates to moving people through town and exploring options that the grant will support.”*

City staff is working to improve pedestrian and bicycle routes from the upper part of town to the Harbor area, and to protect the utilities (water, stormwater and dry utilities) in the slumping segment of the Van Wycke trail. The revised project design and approach are geared to:

- Protect the cultural and environmental resources in this sensitive area by minimizing soil disturbance,
  - Meet Caltrans grant requirements, and
  - Protect the existing utilities in the slumped trail section to prevent impacts such as erosion should failure of the gravity stormwater drain pipe occur due to continued land movement.
- Staff engaged with 21 stakeholders at 2 meetings, then met with Caltrans regarding a potential scope change. GHD, the project engineer has incorporated the stakeholder input and public comment in a new proposed trail route concept. The proposed concept includes:
- New crosswalk on Edwards below Hector Street
  - A new bike lane and sidewalk on the south side of Edwards (between Van Wycke and Galindo Street)
  - Three vista points on Van Wycke at either end of the slumped trail and on Edwards near the new crosswalk,
  - Stabilizing utilities including the gravity storm drain pipe across the failed section.

Last week, Staff held 2 Webex meetings with 15 stakeholders participating to present the revised project concept and invite input on the proposed concept modifications. Based on the feedback, staff believes the revised concept addressed many major concerns. To gain approval and support for the revised concept, additional details will need to be filled in such as options for the utility support, vista point design, and fence placement and design.

**Revised Project Schedule:**

Date	Item	Notes
August 2020	Complete stakeholder & public comment process	Comment to inform design process
Aug-Sept 2020	Develop and submit formal Scope Change Request	For Caltrans review and approvals
October 2020	60% Plans, Specifications & Engineering	For Council Agenda Packet
November 2020	R/W Clearance	For utilities if needed
12/31/20	100% Plans, Specifications & Engineering	Reviewed, ready to submit to Caltrans
1/11/21	Submit Construction Allocation Request	Submitted to Local Assistance

Public comment included:

**Gail Kenny** – Trinidad

It seems premature to be deciding on utilities before deciding whether the trail will be closed.

**Dick Bruce** – Trinidad

Estimate of the length of the I-beam? Sullivan estimated that the foundation footings would approximately be 6 feet deep.

**Bryce Kenny** – Trinidad

It sounds like you already decided to close the trail. If there's a time constraint for the grant funding, has the City requested an extension? I can't believe that a redwood bridge would be that complicated to construct. You see them in the National Park all the time. Most people would rather walk on the trail than a sidewalk along Edwards. I can't believe that for \$700,000 you can't build a footbridge.

**Sarah Lindgren-Akana** – Tsuria Ancestral Society

We would like a copy of the I-beam concept, the date it was developed, and all ideas and concepts that are being considered. The Tsurai has been participating in the discussions, but the project seems to be evolving, and information is changing rapidly. We need to be included.

**Sheri Provolt** – Yurok Tribal Councilmember

The City voted to abandon the trail and discuss connectivity issues, etc. at the January 14 meeting. I hear concerns about closing the trail tonight, but would be very concerned if the Council was re-considering the January decision, again.

**Anita Thompson** – Trinidad

The Council authorized a temporary bypass for the water line along Van Wycke. Could we save some money and make it permanent?

**City Manager Naffah** explained that we already received an extension. If we don't give Caltrans a plan by November, we'll lose an approximately \$715,000 opportunity to invest in very important infrastructure.

**Ladwig:** I want to put an end to the assumption that the City is trying to get away with abandoning the trail. There is an emergency pending and we have to solve it.

**Steve Madrone** – County Supervisor

I appreciate how to utilize funding in a productive way for the community. A significant portion of the road right-of-way is not being used. Regarding suspending the utilities, the plan is premature and pieced together. In 2008 the City hired Madrone Enterprises to inspect the stormdrain. At that time it was intact. The pipe beneath the garden parcel was replaced with a 12" pipe. There is a much cheaper alternative to deal with utilities and not lose the opportunity to rebuild the trail in the future. The stormdrain could be routed down to the beach, and develop an infiltration basin to collect the water. It would also be cheaper to replace the 4" line at Van Wycke with a 6" line on Edwards and Galindo when you tear it up for sidewalk improvements. This will use the grant money in a timely fashion, and preserve the retaining wall that has been slumping as it was designed to do.

**City Engineer Sullivan** explained that any discharge directly into the bay is a non-starter due to the regulations imposed on the City since 2006. A significant amount of effort and investment has been invested into re-routing discharge, and would not be supported by State regulators.

Council comments included:

**Grover:** I appreciate all the ideas and exchange of information tonight.

**Davies:** Removing a retaining wall that's holding up soil is a bad idea. The wall should stay there in order to protect the existing trail.

*No decision was made. Staff will consider input at tonight's meeting, incorporate it into the revised project design, and return to a future meeting with more information.*

2. Discussion/Decision regarding Closure of Galindo Trail.

City Planner Trever Parker explained that she discussed the potential of closing the Galindo Trail with Coastal Commission staff and the process that would be required to accomplish that in 2018. They highlighted several points, including: 1) closure of the trail is "development" under the definition of the Coastal Act, and requires a Coastal Development Permit (CDP); 2) the Galindo Trail is mapped on Plate 4 and described in General Plan policy 64; so, trail closure would also require amendment of the City's Local Coastal Program (LCP); 3) temporary closure requires a CDP, but not an LCP amendment; 4) even placement of signs discouraging use of the trail is also development requiring a CDP.

Therefore, trail closure requires both a CDP and an LCP amendment. Unfortunately, neither the City's LCP, nor the Coastal Act provides clear guidance for closing trails. But Coastal Commission staff mentioned several things that the City will need to consider. Coastal Commission staff indicated that they would want evidence/justification showing the need to close the trail.

In addition, there would need to be alternative access provided in/of the same place, type and manner. This is based on an interpretation of §30214 of the Coastal Act. I asked if the "boardwalk" along the lower portion of Edwards could qualify as alternative access. Coastal Commission staff's opinion at that time was likely not, because it does not get people to the same place. And in order for people to get to the same place, they would have to navigate an area that often has heavy traffic.

Finally, the Coastal Commission will not approve a trail closure that could interfere with prescriptive or other access/use rights (§30211). Prescriptive rights can accrue during any 5-year time span, even if that was well in the past. It takes a judge to determine definitively if prescriptive rights exist. My understanding is that prescription rights cannot accrue on a public right-of-way. However, Coastal Commission staff indicated that the fact that the trail is located within an existing public right-of-way and an easement over the Rancheria property does not necessarily make the issue any easier/cleaner. Therefore, a lack of prescriptive access rights may have to be documented prior to Coastal Commission approval.

Because it was a preliminary discussion, we did not discuss a lot of details. For example, I'm not sure if the CDP or LCP amendment would come first. But the closure will not be a simple process and is not something we can put on an agenda in the next couple of months. In addition to addressing Coastal Commission staff issues, the City may want to consider doing some public outreach and education ahead of any hearing.

Council questions included:

**Clompus:** The trail was installed in 1990. I don't want to walk on the trail if it traverses cultural resources. Can it be re-routed.

**Davies:** The City voted to close the trail before. I would like to see all the discussions and notes regarding this topic compiled in one location so we can see it in black and white. I'm concerned with the Coastal Commission involvement. This will also be a discussion item on the Trails Committee agenda. Any information we receive will be great.

Public comment included:

**Sarah Lindgren-Akana** – Tsurai Ancestral Society

Axel Lindgren II was not confused as to where the resources were. He know exactly where the trail should be routed. The City did not construct it in the right place. I hope the Council upholds the vote made years ago to close the trail.

**Bryce Kenny** – Trinidad

I'm against closing the trail. My family has been using that trail since 1990. I've seen pictures of a grave site nearby. Whoever is buried there has been resting in peace. People walk through cemeteries all the time. The idea that walking in the vicinity of grave doesn't make any sense to me. This is the Galindo Street right-of-way. The trail is an important resource to the City.

**Sheri Provolt** – Yurok Tribal Councilmember

We have letters recognizing cultural sensitivities surrounding this issue. People go to a cemetery to visit loved ones. The majority of people that use the trail probably have no idea a grave exists. I find the comments discouraging.

**Jim Baker** – Retired Councilmember

I don't walk on graves in the Trinidad Cemetery out of respect. There is evidence of a grave along the Galindo Trail. The issues are very complicated. I voted to close the trail because there isn't enough evidence to know exactly where the grave is, and out of respect to the Tsurai's request to close it. The topography, however, in that area has changed dramatically since the photo was taken. That does not, however, change or influence my decision to close the trail, which mainly occurred during discussions at the Tsurai Management Team meetings.

**Dick Bruce** – Trinidad

If the Council passed a Resolution to close the trail, when did that happen?

**Jacque Hostler-Carmeson** – Trinidad Rancheria

I take exception to Mr. Kenny's comment about walking on gravesites, and support Tribal Councilmember Provolt's position. I was taught not to walk on graves.

**Steve Madrone** – County Supervisor

I built that trail when I worked with RCAA. Axel Lindgren II told us where to build it. I know the trail and know the history. The crew mistakenly built it closer to the sensitive area than originally planned. Lindgren ok'd it as-is, and the City didn't mention anything about a grave. I support removal of the trail. It is in a highly sensitive area. It is a practical trail, but the vast majority of traffic uses Edwards Street. We need to do this, and be forceful and clear with the Coastal Commission.

**Sarah Lindgren-Akana** – Tsurai Ancestral Society

TAS supports the City speak with the Coastal Commission and takes step to closing the trail. I don't question Axel Lindgren II's integrity. The village is larger than the study area, but everything within the City limits was in the Tsurai Ancestral Village.

Council comments included:

**West:** It is important for us to do this. I don't remember a full Council vote on this, but I do remember discussing it as part of the Management Team. It's time to get this done.

**Ladwig:** The steps being taken is not a foregone conclusion. We will work closely with the Native community to protect and preserve the resources, and are not driving this process. It is rare that anyone questions whether a site is sacred. It is sacred, and that is the end of it. I voted to remove the trail in 2017 and here we are, years later. However, we didn't vote to give staff real direction to begin the process.

*Motion (Grover/Clompus) to Direct City staff to work with Coastal Commission staff and stakeholders to put together a proposal to close the Galindo Trail, which will eventually become an application for a CDP and LCP Amendment. Staff will provide regular updates at future Council meetings.*

**Davies:** I propose an amendment to put together more information for discussion. I would like to see all the info, and explore how the right-of-way can be used to re-route the trail should it be closed. More clearly stated, the amendment proposed is to "direct City to explore options in the right-of-way before closing the trail." Axel Lindgren II reportedly said there was a better route for the trail. I'd like to understand that more. Trails are being opened and closed arbitrarily. I have a problem with staff proposing only one option. In the future, I'd like to see staff propose multiple options for consideration.

**Clompus:** There is an alternative route to the beach. This has been a festering issue for a long time, and closing the trail is the right thing to do. It's just a trail. It won't impact people terribly, but will send a message to the community that we're sensitive to the cultural resources in the area.

**City Planner Trever Parker** explained that Davies concerns are incorporated into the draft recommendation. Davies disagreed.

**Grover:** I keep my motion as-is. **Clompus** upholds the second.

**Motion passed by the following vote: Ladwig, West, Grover, Clompus = Yes. Davies = No.**

3. Update/Discussion regarding the ASBS Stormwater Project.

City Manager Naffah explained that a meeting was held with the Rancheria about how both entities ASBS projects can work together. There is a Plan A, and Plan B. Plan A would be to work together as planned, and Plan B would be to have them designed separately. Ideally, we work together.

**Ladwig:** I appreciate staff from both governments coming together and working to move this project forward.

There was no Council or public comments.

*Update only. No decision was made.*

4. Continued Discussion/Decision Regarding Government to Government Meeting Policy.  
City Manager Naffah explained that at the July 2020 City Council meeting, questions arose whether Government to Government (G2G) meetings are exempt from the Brown Act.

The First Amendment Coalition prepared a document (available on their website) titled Open Gov Laws, a Brown Act Primer. Section II addresses what public bodies are subject to the Brown Act. It states: "Advisory committees composed solely of the members of the legislative body that constitute less than a quorum and that have neither a continuing scope of business nor a schedule set by the legislative body are not cover by the Act." Our Government to Government meetings (lack a quorum) have a variety of topics and no set schedule, and therefore are exempt.

In a November 2005 document prepared by the California Governor's Office of Planning and Research titled Tribal Consultation Guidelines states: "Should a local legislative body participate in confidential tribal consultations, it is important that they do so as an advisory committee with less than a quorum, so as to not invoke the Brown Act's requirements of public participation."

In several cities that I have worked, it was common to have 2X2 (two by two) committees whereby 2 representatives of a body meet with 2 representatives of another body for discussions. Subsequently any actions would be then be brought forth to the whole body of each agency. For instance, in Crescent City which is the only incorporated city in Del Norte County. Frequent 2X2's were held with the city and the county. Occasionally (i.e. annually), the whole City Council and Board of Supervisors would meet.

Input obtained from Attorneys Andy Stunich and Russ Gains is included in the packet.

Council questions included:

**Clompus:** The reference is well written and I hope to become part of this process. Proceed with caution in these meetings until the full policy is developed.

**West:** These meetings are very helpful. We can work with local Tribes in productive ways by bringing back information to the City. We need to work on reporting back to our Council. The Tsurai Management Team and the Gov2Gov meetings are separate.

**Davies:** The attached policy is the same as the one proposed last month. Agendas of these meetings should be created and shared with the Council. Suggestions from last month were not incorporated into the proposed draft points. This is not a policy. These meetings are being used to discuss business deals. The Hyatt is not part of SB18 or have any cultural significance. The policy needs more detail. Our City Attorney says continuing, repeated content shared at the Gov2Gov meetings should be subject to the Brown Act. There have been repeated water discussions at these meetings since 2019.

Public comment included:

**Sheri Provolt** – Yurok Tribal Councilmember

The policy needs development, and considered in a much broader sense. You may need to meet with the County at some point, or other public entities. Transparency is key. Open meetings are the best, but the private preliminary meetings are helpful to develop topics and refine them for bigger, open meetings.

**Bryce Kenny** - Trinidad

I wrote another letter to the City about this recently. A real Gov2Gov meeting should be held in open session. The Executive Committee is a standing committee. Ad Hoc Committees focus on one issue. The Tsurai Management Team was the origin of the Executive Committee. Do you want open meetings, or secret meetings? Consultations are defined by law. I don't hear a ringing endorsement from your own Attorney about holding these meetings in private.

**Richard Harris** – Bay Area

Many points were covered in Bryce Kenny's letter. Your actions are covered by the Constitution. Continuing subject matter identified these meetings in your list of committees. I agree with Sheri Provolt. These meeting should be as open as possible.

**Naffah** explained that our meetings deal with a variety of topics, but I agree we could improve on agendas, reporting out, and rotating Councilmembers into the process.

*Discussion item only. No decision was made.*

5. Discussion/Decision to Direct Staff to Prepare Amendment to Section 3.20.100 of the Trinidad Municipal Code: Auditing Occupancy Tax Records of Trinidad Lodging Establishments.

**Mayor Ladwig recused himself.**

Councilmember Clompus presented information for review and discussion. The Tourist Occupancy Tax is 1 of the top 3 revenue sources for the City. The ordinance currently states that lodging operators are subject to possible audits at any time, and they must keep their records for a number of years. I don't have any evidence that anyone is being dishonest, but believe the audit language in the ordinance should be consistent with the State's policy. This will help promote compliance and accurate reporting. I'm proposing that the City modify the existing ordinance with language proposed tonight that is consistent with State policy regarding Occupancy Tax auditing.

There was no public comment.

Council comment included:

**Davies:** This is a great idea. There should be accountability. Excellent idea.

**Grover:** Good to see this moving forward.

*Motion (Grover/West) to direct staff to prepare the Ordinance amendment updating the Occupancy Tax auditing process and return with the first reading at a future meeting. **Passed 4-0. (Ladwig recused)***

6. November Election Update and Upcoming Deadlines

City Clerk Adams explained that the City's November 03, 2020 Election ballot will include the Sales Tax Continuation Measure, and Two (3) Councilmember seats.

The list of deadlines related to the Election is as follows:

- August 07 – Deadline for Incumbents to file Nomination Packet
- August 12 – Deadline to file Arguments For/Against the Sales Tax Increase  
*City Manager Naffah and Councilmember Grover are drafting the Argument For the Sales Tax Increase to be included in the voter information pamphlet.*
- August 24 – Deadline to file REBUTTALS to Arguments For/Against Sales Tax Increase.
- September 08 - Regular Council meeting  
*Staff will present a mandatory updated Sales Tax Ordinance for adoption.*
- November 08 – Election Day

There was no Council or public comment.

*Presentation item only.*

**XI. FUTURE AGENDA ITEMS**

**XII. ADJOURN TO CLOSED SESSION**

1. Public Employee Performance Evaluation for City Manager Pursuant to Government Code Section 54957

**ADJOURNMENT: 9:40pm.**

**Submitted by:**

\_\_\_\_\_signed copy on file\_\_\_\_\_

**Gabriel Adams**  
Trinidad City Clerk

**Approved by:**

\_\_\_\_\_signed copy on file\_\_\_\_\_

**Steve Ladwig**  
Mayor